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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/634,265	08/05/2003	Scott Charles McCartney	16367-US	7061

7590 08/31/2004

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EXAMINER


NOVOSAD, CHRISTOPHER J

ART UNIT	PAPER NUMBER
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3671

DATE MAILED: 08/31/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/634,265	Applicant(s) MCCARTNEY, SCOTT CHARLES	
	Examiner Christopher J. Novosad	Art Unit 3671	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 August 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-4 are rejected under 35 U.S.C. 102(b) as being anticipated by Olson.

With respect to claim 1, Olson shows a seeding machine 10 comprising:

a frame 12 (Fig. 1) having a center frame section 16,26,28 (Fig. 1) and left 18,30 and right 14 (col. 2, lines 20-22, misnumbered as 16 in Fig. 1),24 wing frame sections forwardly offset from the center frame section 16,26,28 when in a transport configuration (Fig. 2, col. 3, lines 10-13), the frame 12 having a planting configuration (Fig. 1) wherein the left 18,30 and right (col. 2, lines 20-22, misnumbered as 16 in Fig. 1),24 wing frame sections extend transversely and parallel (Fig. 1) from the center frame section 16,26,28 and a transport configuration (Fig. 2, col. 3, lines 10-13) wherein the left 18,30 and right (col. 2, lines 20-22, misnumbered as 16 in Fig. 1),24 wing frame sections extend perpendicular to the center frame section 16,26,28,

the center frame section 16,26,28 and the left 18,30 and right (col. 2, lines 20-22; misnumbered as 16 in Fig. 1),24 wing frame sections each have a hollow toolbar 24,26,28,30 forming a pneumatic manifold 24,26,28,30,

individual planting units 20 being mounted via structure, unnumbered, in Fig. 2 to the toolbars 24,26,28,30, each planting unit 20 comprising a pneumatic seed meter (col. 3, lines 34 and 35) and a furrow opener (unnumbered; Fig. 2),

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the pneumatic manifold 24,26,28,30 of the center frame section 16,26,28 being pneumatically coupled to each of the left 18,30 and right (col. 2, lines 20-22, misnumbered as 16 in Fig. 1),24 wing frame sections by a resilient bell 54,56 or 60,62,64 that forms a closed pneumatic path (Fig. 4) between the center frame section 16,26,28 and the left 18,30 and right (col. 2, lines 20-22, misnumbered as 16 in Fig. 1),24 wing frame sections when the frame 12 is in its planting configuration (Fig. 1), the pneumatic manifolds 24,26,28,30 being pneumatically coupled to the pneumatic seed meters (col. 3, lines 34 and 35) by air hoses (unnumbered; Figs. 1 and 2).

As to claim 2, Olson shows a forwardly extending draw bar (unnumbered; Fig. 1) indirectly extending from the center frame section 16,26,28.

Regarding claim 3, the left 18,30 and right (col. 2, lines 20-22, misnumbered as 16 in Fig. 1),24 wing frame sections are folded forwardly from their planting configuration (Fig. 1) to their transport configuration (Fig. 2., col. 3, lines 10-13) along side the draw bar (unnumbered; Fig. 1).

With respect to claim 4, each toolbar 24,26,28,30 comprises a main toolbar 24,26,28,30 and a vertically displaced parallel secondary bar 14,16,18 that together form a truss.

Response to Arguments

Applicant's arguments filed in the remarks of the amendment dated August 13, 2004 have been fully considered but they are not persuasive.

Contrary to Applicant's argument that the frame sections are not offset, the left 18,30 and right 14 (col. 2, lines 20-22, misnumbered as 16 in Fig. 1),24 wing frame sections of Olson are

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forwardly offset from the center frame section 16,26,28 **when in a transport configuration** (Fig. 2, col. 3, lines 10-13).

Contrary to Applicant's argument that the frame sections do not form a pneumatic manifold, claim 1 does **not** require **the frame sections** to form a pneumatic manifold. Rather, claim 1 requires the center frame section and the left and right wing frame sections **to each have a hollow toolbar forming a pneumatic manifold**. Olson shows the center frame section 16,26,28 and the left 18,30 and right (col. 2, lines 20-22; misnumbered as 16 in Fig. 1),24 wing frame sections **each having a hollow toolbar 24,26,28,30 forming a pneumatic manifold 24,26,28,30**.

Allowable Subject Matter

Claims 5-10 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after

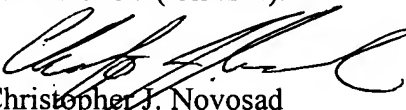
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the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher J. Novosad whose telephone number is 703-308-2246. The examiner can normally be reached on Monday-Thursday 5:30am-4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Will can be reached at 703-308-3870. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Christopher J. Novosad
Primary Examiner
Art Unit 3671

August 27, 2004